

**CONTRACT #3**  
**RFS # 405.23-553**  
**FA # 09-26167**

**Transportation**

**VENDOR:**  
**White/Thompson, LLC**



**STATE OF TENNESSEE  
DEPARTMENT OF TRANSPORTATION**

SUITE 700, JAMES K. POLK BUILDING  
NASHVILLE, TENNESSEE 37243-0349

(615) 741-2848  
October 4, 2010

GERALD E. NICELY  
COMMISSIONER

PHIL BREDESEN  
GOVERNOR

Mr. James W. White, Executive Director  
Tennessee General Assembly  
Fiscal Review Committee  
8<sup>th</sup> Floor, Rachel Jackson Building  
Nashville, TN 37243

Subject: Amendment Three  
White Thompson LLC  
FA-00-26167

RECEIVED  
OCT 04 2010  
FISCAL REVIEW

Dear Mr. White:

The referenced contract is for the statewide clean transportation public education campaign. This amendment will add \$500,000.00 to bring the maximum liability to \$1,800,000.00.

The program is funded with 80% Congestion Mitigation and Air Quality Improvement federal funds and 20% state funds.

This packet contains the following materials as required by your office:

1. Amendment Three which increases the maximum liability to \$1,800,000.00. The contract summary sheet for this amendment
2. Amendment Two and contract summary sheet
3. Amendment One and contract summary sheet
4. The original contract and contract summary sheet
5. The request for a non-competitive amendment
6. Supplemental documentation

Please advise if you have any questions or comments.

Sincerely,

Gerald F. Nicely  
Commissioner

# Supplemental Documentation Required for Fiscal Review Committee

*Contact Name:	Brenda Waldron or Joan Barnfield	*Contact Phone:	615-741-1645 or 615-253-2418
*Original Contract Number:	FA-09-26167	*Original RFS Number:	405.23-553
Edison Contract Number: (if applicable)	8965	Edison RFS Number: (if applicable)	40100-55310
*Original Contract Begin Date:	September 10, 2008	*Current End Date:	September 9, 2011
Current Request Amendment Number: (if applicable)		Three	
Proposed Amendment Effective Date: (if applicable)		January 1, 2011	
*Department Submitting:		Department of Transportation	
*Division:		Environmental	
*Date Submitted:		October 4, 2010	
*Submitted Within Sixty (60) days:		Yes	
If not, explain:			
*Contract Vendor Name:		White Thompson LLC	
*Current Maximum Liability:		\$1,300,000.00	
*Current Contract Allocation by Fiscal Year: (as Shown on Most Current Fully Executed Contract Summary Sheet)			
FY: 2009	FY:	FY:	FY:
\$1,300,000.00	\$	\$	\$
*Current Total Expenditures by Fiscal Year of Contract: (attach backup documentation from STARS or FDAS report)			
FY: 2009	FY: 2010	FY:	FY:
\$389,907.22	715,800.20	\$	\$
IF Contract Allocation has been greater than Contract Expenditures, please give the reasons and explain where surplus funds were spent:		FY funds have been carried forward each year. The current balance is \$194,292.58; however, there are invoices yet to be received for \$176,000+/- which will leave a balance of \$18,000+/-.	
IF surplus funds have been carried forward, please give the reasons and provide the authority for the carry forward provision:		Federal Congestion Mitigation and Air Quality funds allocated for educational campaigns are allowed to roll for the entire term of the contract.	

Effective October 30, 2009

## Supplemental Documentation Required for Fiscal Review Committee

IF Contract Expenditures exceeded Contract Allocation, please give the reasons and explain how funding was acquired to pay the overage:		N/A		
*Contract Funding Source/Amount:	State:	20%	Federal:	80%
Interdepartmental:			Other:	
If "other" please define:				
Dates of All Previous Amendments or Revisions: <i>(if applicable)</i>		Brief Description of Actions in Previous Amendments or Revisions: <i>(if applicable)</i>		
September 1, 2009		Extended contract by one year. Did not increase funding.		
September, 2010		Extended contract by one year. Did not increase funding.		
Method of Original Award: <i>(if applicable)</i>		Request for Proposals		
*What were the projected costs of the service for the entire term of the contract prior to contract award?		The federal government has allocated additional funding for this program.		

## Supplemental Documentation Required for Fiscal Review Committee

For all new non-competitive contracts and any contract amendment that changes Sections A or C.3. of the original or previously amended contract document, provide estimates based on information provided the Department by the vendor for determination of contract maximum liability. Add rows as necessary to provide all information requested.

If it is determined that the question is not applicable to your contract document attach detailed explanation as to why that determination was made.

**This section is not applicable as we are not changing Sections A or C.3.**

**Planned expenditures by fiscal year by deliverable. Add rows as necessary to indicate all estimated contract expenditures.**

Deliverable description:	FY:	FY:	FY:	FY:	FY:

**Proposed savings to be realized per fiscal year by entering into this contract. If amendment to an existing contract, please indicate the proposed savings to be realized by the amendment. Add rows as necessary to define all potential savings per deliverable.**

Deliverable description:	FY:	FY:	FY:	FY:	FY:

**Comparison of cost per fiscal year of obtaining this service through the proposed contract or amendment vs. other options. List other options available (including other vendors), cost of other options, and source of information for comparison of other options (e.g. catalog, Web site). Add rows as necessary to indicate price differentials between contract deliverables.**

Proposed Vendor Cost: (name of vendor)	FY:	FY:	FY:	FY:	FY:
Other Vendor Cost: (name of vendor)	FY:	FY:	FY:	FY:	FY:

Vendor 113150  
 Name White Thompson  
 PO FA0926167

Unit	Voucher ID	Invoice #	Amount Pd	Pymnt Date	Pymnt ID/Wmt #
40100	00005859	10658	10,230.60	10/21/09	0000160609
40100	00006841	10347-0	2,075.00	10/15/09	0000155016
40100	00007693	10655	28,738.97	10/20/09	0000159317
40100	00008223	10656	24,982.86	09/18/09	0000120573
40100	00008230	10659	5,186.72	09/18/09	0000120573
40100	00008244	105920	1,977.90	09/18/09	0000120573
40100	00008254	10352-0	3,898.05	09/18/09	0000120573
40100	00008264	103530	1,250.00	09/18/09	0000120573
40100	00008275	10653	39,063.15	10/20/09	0000159317
40100	00008288	10354-0	1,630.00	09/18/09	0000120573
40100	00008930	106800	3,022.90	10/07/09	0000140289
40100	00008941	10357-0	497.50	09/03/09	0000109375
40100	00008953	103580	4,287.50	10/07/09	0000140289
40100	00009060	10679	1,681.25	10/26/09	0000177188
40100	00016187	10447-0	61,643.90	10/21/09	0000160610
40100	00016196	10705-0	2,330.00	10/21/09	0000160610
40100	00016201	10683-0	2,030.00	10/21/09	0000160610
40100	00016206	106770	975.00	10/21/09	0000160610
40100	00016266	10673-0	950.00	10/21/09	0000160610
40100	00016292	10675-0	712.50	10/21/09	0000160610
40100	00016299	10682	1,481.25	10/21/09	0000160610
40100	00016321	106780	650.00	10/21/09	0000160610
40100	00016329	10355-0	303.75	10/06/09	0000138741
40100	00017893	10811	56,574.05	10/29/09	0000193714
40100	00017905	10814	11,954.40	10/29/09	0000193714
40100	00017921	10804	41,504.11	10/29/09	0000193714
40100	00017922	Lamar	73,316.00	10/21/09	0000160610
40100	00017927	ClearC	14,000.00	10/21/09	0000160610
40100	00017929	Fairway	9,334.00	11/10/09	0000220213
40100	00017930	10805	10,230.60	10/29/09	0000193714
40100	00017932	10817	606.90	10/26/09	0000177189
40100	00018143	10815	5,186.72	10/21/09	0000160610
40100	00018650	10813	16,353.66	10/21/09	0000160610
40100	00018657	10592-0	1,831.18	10/21/09	0000160610
40100	00018659	10827-0	618.75	10/21/09	0000160610
40100	00018665	10828-0	168.75	10/16/09	0000156462
40100	00018666	10832-0	187.50	10/16/09	0000156462
40100	00018667	10859-0	40.00	10/16/09	0000156462

40100	00018668	10881-0	200.00	10/16/09	0000156462
40100	00018670	10882-0	418.50	10/16/09	0000156462
40100	00018671	10883-0	662.50	10/21/09	0000160610
40100	00018672	10884-0	737.50	10/21/09	0000160610
40100	00018673	108880	20,749.86	10/21/09	0000160610
40100	00018674	10879	5,793.62	10/21/09	0000160610
40100	00018675	10877	56,517.69	10/21/09	0000160610
40100	00018676	10876	40,681.39	10/21/09	0000160610
40100	00021266	LAMAR2	18,658.00	11/12/09	0000225921
40100	00021270	10679-0	1,681.25	10/29/09	0000193714
40100	00022466	106740	1,562.50	11/02/09	0000200779
40100	00022468	106790	1,681.25	11/02/09	0000200780
40100	00025491	110950	23,200.09	11/20/09	0000239699
40100	00025492	10986	1,785.00	11/12/09	0000225921
40100	00025493	111050	100.00	11/13/09	0000228338
40100	00025495	111020	581.25	11/12/09	0000225921
40100	00025645	111030	181.25	11/13/09	0000228338
40100	00025649	111270	962.50	11/13/09	0000228338
40100	00052379	11446	51,918.00	02/26/10	0000463874
40100	00065833	Fairway2WT	4,667.00	05/11/10	0000625313
40100	00086995	12176A-0	600.00	07/12/10	0000758991
40100	00087008	12180-0	7,676.40	07/12/10	0000758991
40100	00087020	12330-0	16,924.21	07/14/10	0000762815
40100	00087022	12331-0	4,650.00	07/12/10	0000758991
40100	00087023	12332-0	4,056.25	07/12/10	0000758991
40100	00087024	12337-0	3,518.75	07/12/10	0000758991
40100	00087026	12335-0	1,394.90	07/12/10	0000758991
40100	00087027	12179-0	925.00	07/12/10	0000758991
40100	00087028	12181-0	281.25	07/12/10	0000758991
40100	00087029	12182-0	381.25	07/12/10	0000758991
40100	00087030	12334-0	218.75	07/12/10	0000758991
40100	00087031	12185-0	425.00	07/12/10	0000758991
40100	00087032	12329-0	503.96	07/12/10	0000758991
			715,800.29		

## DOCUMENT FILE SUMMARY INQUIRY

AGENCY: 00

DOCUMENT: FA0926167 SUF: 00

X DOCUMENT	GLA	DOC AMOUNT	ADJ/ACTUALS	LIQUIDATIONS	BALANCE
FA0926167-00	0015	1,300,000.00		1,300,000.00	
FA0926167-00	7550	1,300,000.00	389,907.13	389,907.13	910,092.87
FA0926167-01	0020	35,535.00		35,535.00	
FA0926167-02	0020	8,970.75		8,970.75	
FA0926167-03	0020	712.50		712.50	
FA0926167-04	0020	94,876.78		94,876.78	
FA0926167-05	0020	69,356.12		69,356.12	
FA0926167-06	0020	94,416.66		94,416.66	
FA0926167-07	0020	75,808.72		75,808.72	
FA0926167-08	0020	10,230.60		10,230.60	

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## Activity Summary

Unit: 40100

PO Status: Dispatched

PO ID: FA0926167

Vendor: White Thompson LLC

Lines							
<a href="#">Details</a>		<a href="#">Receipt</a>		<a href="#">Invoice</a>		<a href="#">Matched</a>	
<a href="#">NTV</a>		<a href="#">Customize</a>		<a href="#">Find</a>		<a href="#">View All</a>	
<a href="#">First</a>		<a href="#">1 of 1</a>		<a href="#">Last</a>			
Line	Item	Item Description	UOM	Amount Only	Amt Invoiced Currency	Un-invoiced Amount	Currency
1		FA0926167	EA		715800.290 USD	194,292.580 USD	

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Budgets Overview - Windows Internet Explorer

[https://www.edison.tennessee.gov/jsp/pa00ord/EMPLOYEE/ERP/c/MANAGE\\_C...](https://www.edison.tennessee.gov/jsp/pa00ord/EMPLOYEE/ERP/c/MANAGE_C...)

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Welcome Joan E Barnfield

Budget Overview

Business Unit: 40100

Ledger Group: PRJ\_FG01\_04    Funding Source: 1.0-01 Budget

Type of Calendar: Detail Budget Period

Amounts in Base Currency: USD

Revenue Associated

[Return to Criteria](#)
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Ledger Totals (2 Rows)		
Budget:	1,300,000.00	Net Transfers: 0.00
Expense:	1,100,707.42	
Encumbrance:	104,292.50	
Pre-Encumbrance:	0.00	
Budget Balance:	0.00	
Associate Revenue:	0.00	


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## NON-COMPETITIVE AMENDMENT REQUEST:

APPROVED

Commissioner of Finance &amp; Administration

1) RFS #	40100-55310		
2) Procuring Agency :	Department of Transportation		
<b>EXISTING CONTRACT INFORMATION</b>			
3) Service Caption :	Air Quality Education Campaign		
4) Contractor :	White/Thompson LLC		
5) Contract #	FA-09-26167		
6) Contract Start Date :	September 10, 2008		
7) CURRENT Contract End Date : (if ALL options to extend the contract are exercised)	September 9, 2011		
8) CURRENT Maximum Cost : (if ALL options to extend the contract are exercised)	\$1,800,000.00		
<b>PROPOSED AMENDMENT INFORMATION</b>			
9) Amendment #	Three		
10) Amendment Effective Date : (attached explanation required if < 60 days after F&A receipt)	January 1, 2011		
11) PROPOSED Contract End Date : (if ALL options to extend the contract are exercised)	September 9, 2011		
12) PROPOSED Maximum Cost : (if ALL options to extend the contract are exercised)	\$1,800,000.00		
13) Approval Criteria : (select one)	<input checked="" type="checkbox"/>	use of Non-Competitive Negotiation is in the best interest of the state	
	<input type="checkbox"/>	only one uniquely qualified service provider able to provide the service	
14) Description of the Proposed Amendment Effects & Any Additional Service :			
Adds funding of \$500,000.00 for the final year of the contract.			
15) Explanation of Need for the Proposed Amendment :			
This Contractor has created branding/logo, videos, billboard and print materials. We will use these materials to educate students on air quality and how they can help reduce air pollution.			
16) Name & Address of Contractor's Current Principal Owner(s) : (not required for a TN state education institution)			
White/Thompson, LLC, 1808 Patterson Street, Nashville, TN 37203			
17) Office for Information Resources Endorsement : (required for information technology service; n/a to THDA)			
Documentation is ... <input checked="" type="checkbox"/> Not Applicable to this Request <input type="checkbox"/> Attached to this Request			
18) eHealth Initiative Endorsement : (required for health-related professional, pharmaceutical, laboratory, or imaging service)			
Documentation is ... <input checked="" type="checkbox"/> Not Applicable to this Request <input type="checkbox"/> Attached to this Request			

19) Department of Human Resources Endorsement : (required for state employees training service)	
Documentation is ...	<input checked="" type="checkbox"/> Not Applicable to this Request <input type="checkbox"/> Attached to this Request
20) Description of Procuring Agency Efforts to Identify Reasonable, Competitive, Procurement Alternatives :	
This was procured through the RFP process.	
21) Justification for the Proposed Non-Competitive Amendment :	
The federal Congestion and Mitigation and Air Quality Improvement Program allows for education and outreach programs to help reduce air pollutants. The models and layouts have already been created; we will use the additional funds to roll out programs for schools.	
<b>AGENCY HEAD SIGNATURE &amp; DATE :</b> (must be signed & dated by the <u>ACTUAL</u> procuring agency head as detailed on the Signature Certification on file with OCR— signature by an authorized signatory will be accepted only in documented exigent circumstances)	
 GERALD F. NICELY, COMMISSIONER	DATE 10/5/10



## CONTRACT AMENDMENT

Agency Tracking # 40100-55310	Edison ID 8965	Contract # FA-09-26167	Amendment # Three		
Contractor Legal Entity Name White Thompson, LLC			Registration ID 0000113150		
Amendment Purpose & Effect(s) Adds funding					
Amendment Changes Contract End Date: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		End Date: 9/9/11			
Maximum Liability (TOTAL Contract Amount) Increase/Decrease per this Amendment: + \$500,000.00					
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2009	260,000.00	1,040,000.00			1,300,000.00
2011	100,000.00	400,000.00			500,000.00
TOTAL:	360,000.00	1,440,000.00			1,800,000.00
American Recovery and Reinvestment Act (ARRA) Funding: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO					
Budget Officer Confirmation: There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.			OCR USE		
Speed Code TX00083118	Account Code 71304000				

**AMENDMENT THREE  
TO FA-09-26167**

This Amendment is made and entered by and between the State of Tennessee, Department of Transportation, hereinafter referred to as the "State" and White /Thompson, LLC, hereinafter referred to as the "Contractor." It is mutually understood and agreed by and between said, undersigned contracting parties that the subject contract is hereby amended as follows:

1. The text of contract section C.1. is deleted in its entirety and replaced with the following:

C.1 Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed One Million, Eight Hundred Thousand Dollars and No Cents (\$1,800,000.00). The payment rates in section C.3 shall constitute the entire compensation due the Contractor for all service and Contractor obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the payment rates detailed in section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

The revisions set forth herein shall be effective on the date of final approval by the appropriate State officials in accordance with applicable Tennessee State laws and regulations. All other terms and conditions not expressly amended herein shall remain in full force and effect.

**IN WITNESS WHEREOF,**

**WHITE/THOMPSON, LLC:**

---

**SIGNATURE**

**DATE**

---

**PRINTED NAME AND TITLE OF SIGNATORY (above)**

**TENNESSEE DEPARTMENT OF TRANSPORTATION:**

---

**GERALD F. NICELY, COMMISSIONER**

**DATE**

TENNESSEE DEPARTMENT OF TRANSPORTATION:

---

JOHN REINBOLD, GENERAL COUNSEL  
APPROVED AS TO FORM AND LEGALITY

DATE



# CONTRACT AMENDMENT

Agency Tracking # 40100-55310	Edison ID 8965	Contract # FA-09-26167-00	Amendment # Two
----------------------------------	-------------------	------------------------------	--------------------

Contractor White Thompson LLC	Contractor Federal Employer Identification or Social Security # <input type="checkbox"/> C- or <input checked="" type="checkbox"/> V-20-0480167
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## Amendment Purpose/ Effects

Extend contract for one year

Contract Begin Date 09/10/2008		Contract End Date 09/09/2011		Subrecipient or Vendor <input type="checkbox"/> Subrecipient <input checked="" type="checkbox"/> Vendor		CFDA #(s) 20 205
FY 2009	State 250,000.00	Federal 1,040,000.00	Interdepartmental	Other	TOTAL Contract Amount 1,300,000.00	
TOTAL:		250,000.00	1,040,000.00	1,300,000.00		

American Recovery and Reinvestment Act (ARRA) Funding - ☐ YES ☒ NO

— COMPLETE FOR AMENDMENTS —			Agency Contact & Telephone # Audra Colvin 615/741-2408
END DATE AMENDED?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		
FY 2009	Base Contract & Prior Amendments 1,300,000.00	THIS Amendment ONLY	Agency Budget Officer Approval (there is a balance in the appropriation from which this obligation is required to be paid that is not otherwise encumbered to pay obligations previously incurred)
TOTAL: 1,300,000.00			Speed Code TX00063115
			Account Code 71304000

*M Jpett*  
F&A Secured Document

# FA0926167-02

Procurement Process Summary (non-competitive, FA- or ED-type only)

Contractor selected through RFP process

AMENDMENT TWO  
TO FA-09-26167-00

This Contract Amendment is made and entered by and between the State of Tennessee, Department of Transportation, hereinafter referred to as the "State" and White/Thompson LLC, hereinafter referred to as the "Contractor". It is mutually understood and agreed by and between said, undersigned contracting parties that the subject Contract is hereby amended as follows:

1. The text of Contract Section B.1 is deleted in its entirety and replaced with the following:

B.1. Term This Contract shall be effective for the period commencing on September 10, 2008 and ending on September 9, 2011. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

2. The text of Contract Section B.2 is deleted in its entirety.

The revisions set forth herein shall be effective on the date of final approval by the appropriate State officials in accordance with applicable Tennessee State laws and regulations. All other terms and conditions not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF,

WHITE/THOMPSON LLC.

  
CONTRACTOR SIGNATURE

7-30-10  
DATE

J. Evette White, CEO  
PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

DEPARTMENT OF TRANSPORTATION:

  
GERALD F. NICELY, COMMISSIONER

AUG 06 2010  
DATE

  
JOHN REINBOLD, GENERAL COUNSEL  
APPROVED AS TO FORM AND LEGALITY

7-30-10  
DATE





# C O N T R A C T   A M E N D M E N T

Agency Tracking # <b>FA-09-26167-00 (40523-55310)</b>		Edison ID <b>8965</b>		Amendment # <b>1</b>	
Contractor <b>White/Thompson LLC</b>		Contractor Federal Employer Identification or Social Security # <input type="checkbox"/> C- or <input checked="" type="checkbox"/> V- 20.0480167			
Amendment Purpose/ Effects To extend this Contract for an addition period of one year.					
Contract Begin Date September 10, 2008		Contract End Date September 9, 2010		Subrecipient or Vendor <input type="checkbox"/> Subrecipient <input checked="" type="checkbox"/> Vendor	
				CFDA #(s) 20.205	
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2009	260,000.00	1,040,000.00			1,300,000.00
TOTAL:	260,000.00	1,040,000.00			1,300,000.00

--- COMPLETE FOR AMENDMENTS ---			Agency Contact & Telephone # TDOT -- Audra Colvin 615/741-2498 <div style="text-align: right; font-family: cursive; font-size: 1.2em;">Deal Hank</div>	
END DATE AMENDED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO				
FY	Base Contract & Prior Amendments	THIS Amendment ONLY	Agency Budget Officer Approval (there is a balance in the appropriation from which this obligation is required to be paid that is not otherwise encumbered to pay obligations previously incurred)	
2009	1,300,000.00			
TOTAL:	1,300,000.00		Speed Code                      Account Code	

--- OCR USE ---

Procurement Process Summary (non-competitive, FA- or ED-type only)

AMENDMENT ONE  
TO FA-09-28167-00

This Contract Amendment is made and entered by and between the State of Tennessee, Department of Transportation hereinafter referred to as the "State" and White/Thompson LLC, hereinafter referred to as the "Contractor." It is mutually understood and agreed by and between said, undersigned contracting parties that the subject Contract is hereby amended as follows:

The text of Contract Section B.1. is deleted in its entirety and replaced with the following:

B.1. Term. This Contract shall be effective for the period commencing on September 10, 2008 and ending on September 9, 2010. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

The revisions set forth herein shall be effective September 1, 2009. All other terms and conditions not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF,

WHITE/THOMPSON LLC

  
CONTRACTOR SIGNATURE

7/20/09  
DATE

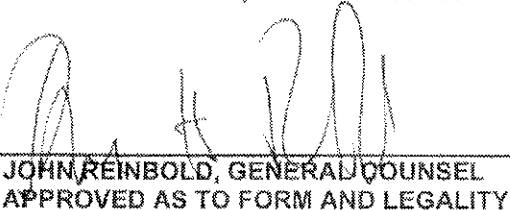
J. Evette White

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

DEPARTMENT OF TRANSPORTATION

  
GERALD F. NICELY, COMMISSIONER

8/7/09  
DATE

  
JOHN REINBOLD, GENERAL COUNSEL  
APPROVED AS TO FORM AND LEGALITY

8/6/09  
DATE

\* Revision: Funding Source \*

# CONTRACT SUMMARY SHEET

021906

RFS #	Contract #
405 . 23 — 553 —	FA-09-26167-00
State Agency	State Agency Division
TDOT	ENVIRONMENTAL
Contractor Name	Contractor ID # (FEIN or SSN)
WHITE/THOMPSON LLC	<input type="checkbox"/> C- or <input checked="" type="checkbox"/> V- 20-0480167

Service Description			
AIR QUALITY EDUCATION CAMPAIGN			
Contract Begin Date	Contract End Date	SUBRECIPIENT or VENDOR?	CFDA #
9/10/08	09/09/10	VENDOR	20.205

Mark Each TRUE Statement				<input type="checkbox"/> Contractor's Form W-9 is on file in Accounts	
<input checked="" type="checkbox"/> Contractor is on STARS					
Allotment Code	Cost Center	Object Code	Fund	Funding Grant Code	Funding Subgrant Code
480.00	88	1340	21		
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2009	\$260,000.00	\$1,040,000.00			\$1,300,000.00
TOTAL:	\$260,000.00	\$1,040,000.00			\$1,300,000.00

— COMPLETE FOR AMENDMENTS ONLY —			State Agency Fiscal Contact & Telephone #
FY	Base Contract & Prior Amendments	THIS Amendment ONLY	Audra Colvin 615-741-2498
			State Agency Budget Officer Approval
			Neal Ham <i>Neal Ham</i>
			Funding Certification (certification, required by T.C.A., § 9-4-5113, that there is a balance in the appropriation from which the obligated expenditure is required to be paid that is not otherwise encumbered to pay obligations previously incurred)
TOTAL:			
End Date:			

Contractor Ownership (complete for ALL base contracts-- N/A to amendments or delegated authorities)					
<input type="checkbox"/> African American	<input type="checkbox"/> Person w/ Disability	<input type="checkbox"/> Hispanic	<input type="checkbox"/> Small Business	<input type="checkbox"/> Government	
<input type="checkbox"/> Asian	<input type="checkbox"/> Female	<input type="checkbox"/> Native American	<input type="checkbox"/> NOT Minority/Disadvantaged	<input checked="" type="checkbox"/> Other	
Contractor Selection Method (complete for ALL base contracts-- N/A to amendments or delegated authorities)					
<input checked="" type="checkbox"/> RFP	<input type="checkbox"/> Competitive Negotiation *	<input type="checkbox"/> Alternative Competitive Method *			
<input type="checkbox"/> Non-Competitive Negotiation *	<input type="checkbox"/> Negotiation w/ Government (ID, GG, GU)	<input type="checkbox"/> Other *			

* Procurement Process Summary (complete for selection by Non-Competitive Negotiation, Competitive Negotiation OR Alternative Method)

**CONTRACT  
BETWEEN THE STATE OF TENNESSEE,  
DEPARTMENT OF TRANSPORTATION  
ENVIRONMENTAL DIVISION  
AND  
WHITE / THOMPSON LLC**

This Contract, by and between the State of Tennessee, Department of Transportation, Environmental Office, hereinafter referred to as the "State" and White / Thompson LLC, hereinafter referred to as the "Contractor", is for the provision of "Educating the Public on Congestion Mitigation and Air Quality Issues."

The Contractor is a Limited Liability Company.  
Contractor Federal Employer Identification or Social Security Number: 20-0480167  
Contractor Place of Incorporation or Organization: Tennessee

**A. SCOPE OF SERVICES**

- A.1. The Contractor shall provide all services and deliverables as required, described, and detailed by this Scope of Services and shall meet all service and delivery timelines specified in the Scope of Services section or elsewhere in this Contract.
- A.2. The State is responsible for educating the public (citizens and employers) on environmental issues, specifically traffic congestion, how it affects air quality and what the public can do about it. The Contractor shall develop a program(s) that will increase understanding of the existence, severity and urgency of the air quality problem with the goal to change public attitudes and motivate behavioral changes so desired actions will be more frequently taken. This shall be accomplished by promoting, educating and disseminating information in the non-attainment areas through media placement. In order to accomplish the goal of reducing emissions and educating the public, the Contractor shall provide full-service advertising services for the statewide Tennessee clean transportation public education campaign.
- A.3. The Contractor shall develop a statewide theme, or recognizable brand, with messages that reflect the regional conditions and existing programs in the non-attainment areas.

The non-attainment areas (counties) are:

Shelby	Montgomery	Wilson	Roane (partial)
Davidson	Williamson	Anderson	Cocke (partial)
Rutherford	Hamilton	Jefferson	
Loudon	Knox	Sumner	
Blount	Sevier		

- A.4. All of the messages will incorporate the following themes.
- a. Defining the problem regarding air pollution conditions in non-attainment areas.
    - Over half the state's population lives in areas where the air is sometimes unhealthy to breathe.
    - Trucks, SUVs, and cars are major sources of air pollution and Tennessee cannot meet federal health standards unless we reduce emissions from trucks and cars.
  - b. Recognizing the cause and effects of air pollution.

c. Explaining what citizens and employers can do about it.

- Maintain your vehicle (keep engine tuned and tires inflated correctly).
- Change your driving habits (slow down, avoid idling, fill up later).
- Buy low emission, fuel-efficient vehicles.
- Use cleaner fuels ( biodiesel or E85).
- Use transportation alternatives (telework, walk, bike, carpool, vanpool, transit).
- Take action on air quality alert days.
- Install retrofit emission control equipment on existing diesel vehicles.

d. Explaining how to get started.

- Information resources.
- Contact information for regional/local agencies and information.

A.5. The Contractor shall consult with the State Program Manager regarding the best use of media resources to maximize the effectiveness of a campaign or a particular advertisement. The recommendations regarding best use of media resources shall be provided within three months of the contract start date.

A.6. The Contractor shall develop campaigns based on factors/research such as:

- The target audience
- The purpose of the campaign
- Number of concepts for the spot from which the State may choose
- Talent budgets
- Production estimate for camera crew
- Overall budget for entire campaign (all inclusive of spot production, media planning and media purchase)

A.7. The Contractor shall utilize the Clean Air Partnership report and survey, which will be provided upon request, and other available surveys to gather an understanding of the problems of public identification of current issues. This will also aid the Contractor in identifying and analyzing the key audience to determine the most efficient and cost effective method to market the campaign.

A.8. The Contractor shall identify, assess and recommend best methods for communication of ads; for example:

- TV or radio
- website content
- print (newsletters/brochures)
- outdoor advertising
- workshop materials (power point presentations)
- public service announcements

A.9. The State shall provide the Contractor with the following parameters based on a budget established for each campaign plan that will contain the following criteria:

- Campaign components to be utilized (radio, television, cable or other media)
- Demographic of target audience
- Reach/frequency expectations
- Markets to include in the campaign
- Spot length/time and number of spots
- Flight dates (date and time ad will run).

- A.10. Within three months after the contract start date, the Contractor shall have created, developed and produced a comprehensive set of air quality/transportation ads, including campaign name, theme and graphic elements (logos, slogans and symbols easily recognized by the public). The Contractor shall provide creative assistance and strategic counsel to support the development and implementation of the public education campaign.
- A.11. The Contractor will submit a marketing plan to the State at least six weeks prior to the beginning of the campaign flight. Upon approval of the marketing plan by the State (usually within two days), the Contractor may then obtain proposals from stations. The Contractor will submit a Station Order outlining day part schedule, costs, net rate of media costs and flight dates along with station name, market, station contact and campaign title. Upon approval of the Station Order by the State (usually within 1-3 days), the Contractor shall purchase the media and lock in the order with each station.
- A.12. The Contractor shall provide media reports and administrative reconciliation services and media buy results within two weeks after the flight. These reports include reach, frequency and cost per point.
- A.13. Stations chosen must be ranked in the top one half of the market, target the chosen demographic group and have a large reach; i.e. a reach or frequency most advantageous for recollection and recall of the message. Television and radio stations are chosen based on research data gained through Arbitron or Nielson ratings.
- A.14. The Contractor shall implement the approved marketing activities in each nonattainment area within six months after award of the Contract. An estimated time line from concept to production may occur as follows:
- The Contractor will submit concepts – 10-12 weeks prior to the flight date.
  - The State will evaluate the concept(s) and choose one for production two – 8-10 weeks prior to flight.
  - The Contractor will secure production crew and talent, if necessary – 6-8 weeks prior to flight date. The State will attend the production of spot, if possible.
  - The Contractor will provide the spot to the State access for final approval – 4-6 weeks prior to flight dates.
  - The spot will then be distributed to stations on the media plan with creative rotation instruction- 2-4 weeks prior to flight date.
- A.15. The Contractor shall develop basic materials for approval by the State within six months of award of the Contract. This will enable the State to hold kick-off campaigns. The basic materials to support the campaign include the following:
- web site
  - program brochure
  - campaign briefing package designed for employers
  - poster
  - information kit that will include a 5-10 minute general audience videotape.
- A.16. A State Project Manager will monitor the Contractor's progress on a weekly basis. The State will review and approve all campaign themes and messages as they are presented within a two week timeframe. The State and Contractor will work with various partner agencies to ensure statewide accuracy and consistency in an overall statewide public education campaign. Communications and presentations may be made to the State via video-conferencing.

- A.17. The Contractor shall allow the State the benefit of any and all discounts that are afforded the Contractor. The Contractor shall immediately notify the State of any discounts, special promotions, or sponsorships. Each buy shall include matching Public Service Announcements (PSAs). A PSA may be an audio or visual noting an environmental message.
- A.18. The Contractor shall identify and pursue opportunities for free media coverage such as Clean Air Partnerships and Environmental Protection Agency programs. The Contractor shall develop and cultivate relationships with key journalists and media outlets in non-attainment areas and maintain an aggressive statewide media relations effort to effectively exploit the news value associated with air quality improvements issues.
- A.19. The Contractor shall, at the written request of the State, produce items to further the success of the marketing campaign (banners, mobile signage, exhibit booths, digital graphics, advertising wrap.) provided, however, that the State shall pay the Contractor's cost with no mark-up. Contracting for talent and media production (film, lighting, make-up, dubs, etc.) shall likewise be reimbursed at cost with no mark-up.
- A.20. The Contractor shall produce quarterly marketing/media synopsis and an annual report to illustrate paid media activity (market penetration, target audiences reached, messages, frequencies) and other reports as requested by the State addressing the effectiveness of various efforts.
- A.21. The Contractor shall develop and conduct two surveys to assess the impact of the campaign. One survey shall be conducted within one year after award of contract. If the contract is amended to provide additional year(s) of service, a second survey shall be conducted within the second contract year as directed by the State.

**B. CONTRACT TERM:**

- B.1. Term. This Contract shall be effective for the period commencing on September 10, 2008 and ending on September 9, 2009. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.
- B.2. Term Extension. The State reserves the right to extend this Contract for an additional period or periods of time representing increments of no more than one year and a total contract term of no more than three (3) years, provided that such an extension of the contract term is effected prior to the current, contract expiration date by means of an amendment to the Contract. If the extension of the Contract necessitates additional funding beyond that which was included in the original Contract, the increase in the State's maximum liability will also be effected through an amendment to the Contract, and shall be based upon payment rates provided for in the original Contract.

**C. PAYMENT TERMS AND CONDITIONS:**

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed One Million Three Hundred Thousand Dollars and no cents (\$1,300,000.00). The payment rates in Section C.3 and the Travel Compensation provided in Section C.4 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the

Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the payment rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

C.2. Compensation Firm. The payment rates and the maximum liability of the State under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended.

C.3. Payment Methodology. The Contractor shall be compensated based on the payment rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in Section C.1.

- a. The Contractor's compensation shall be contingent upon the satisfactory completion of units, milestones, or increments of service defined in Section A.
- b. Renumeration for the campaign project(s) shall be based on a campaign/project plan and maximum cost as proposed by the Contractor and approved by the State. The Contractor shall invoice the State at rates not to exceed the applicable hourly rates detailed below and the total amount shall not exceed the maximum campaign/project plan cost proposed and accepted by the State.
- c. Consultations and report preparation shall be provided according to the rate below, dependant upon State approval.
- d. Invoicing of incremental billable hours must include the service description and employee name.

Service Description* Reference Section A	Amount ** (per compensable increment)
Account Executive	\$ 75.00/per hour
Administrative /Clerical/Intern	\$ 25.00/per hour
Art Director	\$ 50.00/per hour
Copywriter	\$ 50.00/per hour
Creative Director	\$ 50.00/per hour
Digital Services	\$ 50.00/per hour
Illustration	\$ 25.00/per hour
Media Placement Services	\$ 50.00/per hour
Photo Retouching	\$ 25.00/per hour
Production Supervisor	\$ 25.00/per hour

\* Job descriptions are described in Attachment Two

\*\* Should the term extension provision be exercised by amendment the same rates listed will be applicable for years 2-3.

The Contractor shall provide the State with an estimated number of hours per job description for each marketing campaign.

- e. The Contractor shall not be compensated for travel time to the primary location of service provision.



Service Description Reference A.13.	Not To Exceed % Mark-up**
Media Buys (Print and Broadcast) %	Two Percent (2.00%)

\*\* Should the term extension provision be exercised by amendment the same rate listed will be applicable for years 2-3.

- f. Following approval for each media buy, the Contractor shall negotiate the best possible rates for each and negotiate for free media. For each media buy approved by the State in advance, the State shall reimburse the Contractor for the Contractor's actual net cost of the media buy and shall compensate the Contractor for the Media placement in the amount of two percent (2.00%) of the Contractor's actual net cost of the media buy. Said payment shall constitute the total amount payable to the Contractor for any and all costs associated with a media buy and placement. The Contractor shall not be reimbursed or compensated for any media buy not approved by the State in advance.

Service Description See details below	Amount
Banners, Signage, Booths, etc.	At Cost – No mark-up
Talent and Media Production (film, lighting, make-up, dubs)	At Cost – No mark-up

- g. The Contractor shall, at the written request of the State, produce items to further the success of the marketing campaign (banners, mobile signage, exhibit booths, digital graphics, advertising wrap) provided, however, that the State shall pay the Contractor's cost with no mark-up. Contracting for talent and media production (film, lighting, make-up, dubs) shall likewise be reimbursed at cost with no mark-up. These services must be procured competitively in a manner approved by the State.
- h. Incidental expenses such as telephone calls, faxes, photo copies, and package delivery are not reimbursable under this contract.
- C.4. Travel Compensation. Compensation to the Contractor for travel, meals, or lodging shall be subject to amounts and limitations specified in the "State Comprehensive Travel Regulations," as they are amended from time to time and shall not exceed Five Thousand Dollars (\$5,000.00) during the period of the Contract. The Contractor shall obtain written approval from the State prior to any travel.
- C.5. Invoice Requirements. The Contractor shall invoice the State only for completed increments of service and for the amount stipulated in Section C.3, above, and as required below prior to any payment.
- a. The Contractor shall submit invoices no more often than monthly, with all necessary supporting documentation, to:

Joan Barnfield, Coordinator  
Tennessee Department of Transportation- Environmental Division  
JK Polk Bldg, 9<sup>th</sup> Floor  
505 Deaderick Street  
Nashville, TN 37243

b. The Contractor agrees that each invoice submitted shall clearly and accurately (all calculations must be extended and totaled correctly) detail the following required information.

- (1) Invoice/Reference Number (assigned by the Contractor);
- (2) Invoice Date;
- (3) Invoice Period (period to which all invoiced charges are applicable);
- (4) Contract Number (assigned by the State to this Contract);
- (5) Account Name: Tennessee Department of Transportation, Environmental Division;
- (6) Account/Customer Number (uniquely assigned by the Contractor to the above-referenced Account Name);
- (7) Contractor Name;
- (8) Contractor Federal Employer Identification Number or Social Security Number (as referenced in this Contract);
- (9) Contractor Contact (name, phone, and/or fax for the individual to contact with billing questions);
- (10) Contractor Remittance Address;
- (11) Complete Itemization of Charges, which shall detail the following:
  - i. Service Description for each service invoiced;
  - ii. Number of Units, Increments, or Milestones of each service invoiced;
  - iii. Applicable Payment Rate (as stipulated in Section C.3.) for each service invoiced;
  - iv. Amount Due by Service
  - v. Travel Compensation requested in accordance with and attached to the invoice appropriate documentation and receipts as required by the above-referenced "State Comprehensive Travel Regulations;" and
  - vi. Total Amount Due for the invoice period.

c. The Contractor understands and agrees that an invoice to the State under this Contract shall:

- (1) include only charges for service described in Contract Section A and in accordance with payment terms and conditions set forth in Contract Section C;
- (2) not include any future work but will only be submitted for completed service; and
- (3) not include sales tax or shipping charges.

d. The Contractor agrees that timeframe for payment (and any discounts) begins when the State is in receipt of each invoice meeting the minimum requirements above.

e. The Contractor shall complete and sign a "Substitute W-9 Form" provided to the Contractor by the State. The taxpayer identification number contained in the Substitute W-9 submitted to the State shall agree to the Federal Employer Identification Number or Social Security Number referenced in this Contract for the Contractor. The Contractor shall not invoice the State for services until the State has received this completed form.

C.6. Payment of Invoice. The payment of the invoice by the State shall not prejudice the State's right to object to or question any invoice or matter in relation thereto. Such payment by the State shall neither be construed as acceptance of any part of the work or service provided nor as an approval of any of the amounts invoiced therein.

C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, not to constitute proper remuneration for compensable services.

- C.8. Deductions. The State reserves the right to deduct from amounts which are or shall become due and payable to the Contractor under this or any Contract between the Contractor and the State of Tennessee any amounts which are or shall become due and payable to the State of Tennessee by the Contractor.
- C.9. Automatic Deposits. The Contractor shall complete and sign an "Authorization Agreement for Automatic Deposit (ACH Credits) Form." This form shall be provided to the Contractor by the State. Once this form has been completed and submitted to the State by the Contractor all payments to the Contractor, under this or any other Contract the Contractor has with the State of Tennessee shall be made by Automated Clearing House (ACH). The Contractor shall not invoice the State for services until the Contractor has completed this form and submitted it to the State.
- D. **STANDARD TERMS AND CONDITIONS:**
- D.1. Required Approvals. The State is not bound by this Contract until it is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.
- D.2. Modification and Amendment. This Contract may be modified only by a written amendment executed by all parties hereto and approved by the appropriate Tennessee State officials in accordance with applicable Tennessee State laws and regulations.
- D.3. Termination for Convenience. The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a Breach of Contract by the State. The State shall give the Contractor at least Forty-Five (45) days written notice before the effective termination date. The Contractor shall be entitled to receive compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.
- D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, they shall contain, at a minimum, sections of this Contract below pertaining to "Conflicts of Interest," "Nondiscrimination," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.
- D.6. Conflicts of Interest. The Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.
- D.7. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

- D.8. Prohibition of Illegal Immigrants. The requirements of Public Acts of 2006, Chapter Number 878, of the state of Tennessee, addressing the use of illegal immigrants in the performance of any Contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.
- a. The Contractor hereby attests, certifies, warrants, and assures that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document at Attachment One, hereto, semi-annually during the period of this Contract. Such attestations shall be maintained by the Contractor and made available to state officials upon request.
  - b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the period of this Contract, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work relative to this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work relative to this Contract. Attestations obtained from such subcontractors shall be maintained by the Contractor and made available to state officials upon request.
  - c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Said records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.
  - d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Public Chapter 878 of 2006 for acts or omissions occurring after its effective date. This law requires the Commissioner of Finance and Administration to prohibit a contractor from contracting with, or submitting an offer, proposal, or bid to contract with the State of Tennessee to supply goods or services for a period of one year after a contractor is discovered to have knowingly used the services of illegal immigrants during the performance of this Contract.
  - e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not either a United States citizen, a Lawful Permanent Resident, or a person whose physical presence in the United States is authorized or allowed by the federal Department of Homeland Security and who, under federal immigration laws and/or regulations, is authorized to be employed in the U.S. or is otherwise authorized to provide services under the Contract.
- D.9. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.10. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.11. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.

D.12. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.

D.13. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

The Contractor, being an independent contractor and not an employee of the State, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Contractor's employees, and to pay all applicable taxes incident to this Contract.

D.14. State Liability. The State shall have no liability except as specifically provided in this Contract.

D.15. Force Majeure. The obligations of the parties to this Contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, acts of God, natural disasters, riots, wars, epidemics or any other similar cause.

D.16. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.

D.17. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under *Tennessee Code Annotated*, Sections 9-8-101 through 9-8-407.

D.18. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.

D.19. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.

D.20. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

## **E. SPECIAL TERMS AND CONDITIONS**

E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.

- E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by EMAIL or facsimile transmission with recipient confirmation. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or EMAIL address as set forth below or to that of such other party or address, as may be hereafter specified by written notice.

The State:

Alan Jones, Manager  
Tennessee Department of Transportation  
Environmental Division  
9<sup>th</sup> Floor, JK Polk Bldg.  
505 Deaderick St.  
Nashville, TN 37243  
[Alan.Jones@state.tn.us](mailto:Alan.Jones@state.tn.us)  
Telephone # 615-741-6832  
FAX # 615-741-1098

Joan Barnfield, Coordinator  
Tennessee Department of Transportation  
Environmental Division  
9<sup>th</sup> Floor, JK Polk Bldg.  
505 Deaderick St.  
Nashville, TN 37243  
[Joan.Barnfield@state.tn.us](mailto:Joan.Barnfield@state.tn.us)  
Telephone # 615-253-2418  
FAX # 615-741-1098

The Contractor:

Evette White CEO  
White / Thompson LLC  
1808 Patterson Street  
Nashville, TN 37203  
[ewhite@whitethompson.com](mailto:ewhite@whitethompson.com)  
Telephone # 615-321-1033  
FAX # 615-321-1038

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

- E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- E.4. Tennessee Consolidated Retirement System. The Contractor acknowledges and understands that, subject to statutory exceptions contained in *Tennessee Code Annotated*, Section 8-36-801, *et. seq.*, the law governing the Tennessee Consolidated Retirement System (TCRS), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established pursuant to *Tennessee Code Annotated*, Title 8, Chapter 35, Part 3 accepts state employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the period of this Contract.

- E 5. Voluntary Buyout Program. The Contractor acknowledges and understands that, for a period of two years beginning August 16, 2008, restrictions are imposed on former state employees who received a State of Tennessee Voluntary Buyout Program (VBP) severance payment with regard to contracts with state agencies that participated in the VBP.
- a. The State will not contract with either a former state employee who received a VBP severance payment or an entity in which a former state employee who received a VBP severance payment or the spouse of such an individual holds a controlling financial interest.
  - b. The State may contract with an entity with which a former state employee who received a VBP severance payment is an employee or an independent contractor. Notwithstanding the foregoing, the Contractor understands and agrees that there may be unique business circumstances under which a return to work by a former state employee who received a VBP severance payment as an employee or an independent contractor of a State contractor would not be appropriate, and in such cases the State may refuse Contractor personnel. Inasmuch, it shall be the responsibility of the State to review Contractor personnel to identify any such issues.
  - c. With reference to either subsection a. or b. above, a contractor may submit a written request for a waiver of the VBP restrictions regarding a former state employee and a contract with a state agency that participated in the VBP. Any such request must be submitted to the State in the form of the *VBP Contracting Restriction Waiver Request* format available from the State and the Internet at: [www.state.tn.us/finance/rds/ocr/waiver.html](http://www.state.tn.us/finance/rds/ocr/waiver.html). The determination on such a request shall be at the sole discretion of the head of the state agency that is a Party to this Contract, the Commissioner of Finance and Administration, and the Commissioner of Human Resources.
- E 6. Insurance. The Contractor shall carry adequate liability and other appropriate forms of insurance.
- a. The Contractor shall maintain, at minimum, the following insurance coverage:
    - (1) Workers' Compensation/ Employers' Liability (including all states coverage) with a limit not less than the relevant statutory amount or one million dollars (\$1,000,000) per occurrence for employers' liability whichever is greater.
    - (2) Comprehensive Commercial General Liability (including personal injury & property damage, premises/operations, independent contractor, contractual liability and completed operations/products) with a bodily injury/property damage combined single limit not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate.
    - (3) Automobile Coverage (including owned, leased, hired, and non-owned vehicles) with a bodily injury/property damage combined single limit not less than one million dollars (\$1,000,000) per occurrence.
    - (4) Professional Malpractice Liability with a limit of not less than one million dollars (\$1,000,000) per claim and two million dollars (\$2,000,000) aggregate.
  - b. At any time State may require the Contractor to provide a valid Certificate of Insurance detailing Coverage Description; Insurance Company & Policy Number; Exceptions and Exclusions; Policy Effective Date; Policy Expiration Date; Limit(s) of Liability; and Name and Address of Insured. Failure to provide required evidence of insurance coverage shall be a material breach of this Contract.
- E 7. Confidentiality of Records. Strict standards of confidentiality of records shall be maintained in accordance with the law. All material and information, regardless of form, medium or method of

communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State shall be regarded as confidential information in accordance with the provisions of State law and ethical standards and shall not be disclosed, and all necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with State law and ethical standards.

The Contractor will be deemed to have satisfied its obligations under this section by exercising the same level of care to preserve the confidentiality of the State's information as the Contractor exercises to protect its own confidential information so long as such standard of care does not violate the applicable provisions of the first paragraph of this section.

The Contractor's obligations under this section do not apply to information in the public domain; entering the public domain but not from a breach by the Contractor of this Contract; previously possessed by the Contractor without written obligations to the State to protect it; acquired by the Contractor without written restrictions against disclosure from a third party which, to the Contractor's knowledge, is free to disclose the information; independently developed by the Contractor without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure.

It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Contract.

- E.8. Printing Authorization. The Contractor agrees that no publication coming within the jurisdiction of *Tennessee Code Annotated*, Section 12-7-101, *et. seq.*, shall be printed unless a printing authorization number has been obtained and affixed as required by *Tennessee Code Annotated*, Section 12-7-103 (d).
- E.9. State Ownership of Work Products. The State shall have ownership, right, title, and interest, including ownership of copyright, in all work products, including computer source code, created, designed, developed, derived, documented, installed, or delivered under this Contract subject to the next subsection and full and final payment for each "Work Product." The State shall have royalty-free and unlimited rights and license to use, disclose, reproduce, publish, distribute, modify, maintain, or create derivative works from, for any purpose whatsoever, all said Work Products.
- a. To the extent that the Contractor uses any of its pre-existing, proprietary or independently developed tools, materials or information ("Contractor Materials"), the Contractor shall retain all right, title and interest in and to such Contractor Materials, and the State shall acquire no right, title or interest in or to such Contractor Materials EXCEPT the Contractor grants to the State an unlimited, non-transferable license to use, copy and distribute internally, solely for the State's internal purposes, any Contractor Materials reasonably associated with any Work Product provided under the Contract.
  - b. The Contractor shall furnish such information and data as the State may request, including but not limited to computer code, that is applicable, essential, fundamental, or intrinsic to any Work Product and Contractor Materials reasonably associated with any Work Product, in accordance with this Contract and applicable state law.
  - c. Nothing in this Contract shall prohibit the Contractor's use for its own purposes of the general knowledge, skills, experience, ideas, concepts, know-how, and techniques obtained and used during the course of providing the services requested under this Contract.
  - d. Nothing in the Contract shall prohibit the Contractor from developing for itself, or for others, materials which are similar to and/or competitive with those that are produced under this Contract.



E.10. Competitive Procurements. This Contract provides for reimbursement of the cost of goods, materials, supplies, equipment, or contracted services. Such procurements shall be made on a competitive basis, where practical. The Contractor shall maintain documentation for the basis of each procurement for which reimbursement is paid pursuant to this Contract. In each instance where it is determined that use of a competitive procurement method was not practical, said documentation shall include a written justification, approved by the Commissioner of the Department of Transportation, for such decision and non-competitive procurement.

E.11. State Furnished Property. The Contractor shall be responsible for the correct use, maintenance, and protection of all articles of nonexpendable, tangible, personal property furnished by the State for the Contractor's temporary use under this Contract. Upon termination of this Contract, all property furnished shall be returned to the State in good order and condition as when received, reasonable use and wear thereof excepted. Should the property be destroyed, lost, or stolen, the Contractor shall be responsible to the State for the residual value of the property at the time of loss.

E.12. Incorporation of Additional Documents. Included in this Contract by reference are the following documents

- a. The Contract document and its attachments
- b. All Clarifications and addenda made to the Contractor's Proposal
- c. The Request for Proposal and its associated amendments
- d. Technical Specifications provided to the Contractor
- e. The Contractor's Proposal

In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities and performance under this contract, these documents shall govern in order of precedence detailed above.

E.13. Prohibited Advertising. The Contractor shall not refer to this Contract or the Contractor's relationship with the State hereunder in commercial advertising in such a manner as to state or imply that the Contractor or the Contractor's services are endorsed. It is expressly understood and agreed that the obligations set forth in this section shall survive the termination of this Contract in perpetuity.

E.14. Lobbying. The Contractor certifies, to the best of its knowledge and belief, that:

- a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- c. The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code.

E. 15. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
- b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
- c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
- d. have not within a three (3) year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.


The Contractor shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded or disqualified.

E. 16. Contractor Commitment to Diversity. The Contractor shall comply with and make reasonable business efforts to exceed the commitment to diversity represented by the Contractor's proposal responding to RFP405.23-553 (Attachment 6.3, Section B., Item B.13) and resulting in this Contract.


The Contractor shall assist the State in monitoring the Contractor's performance of this commitment by providing, as requested, a quarterly report of participation in the performance of this Contract by small business enterprises and businesses owned by minorities, women, and persons with a disability. Such reports shall be provided to the state of Tennessee Governor's Office of Business Diversity Enterprise in form and substance as required by said office.

IN WITNESS WHEREOF:

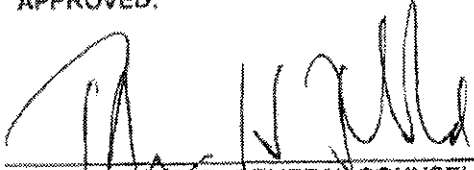
WHITE / THOMPSON, LLC:


 _____ CONTRACTOR SIGNATURE	9-25-08 _____ DATE
 J. Evette White, CEO _____ PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)	

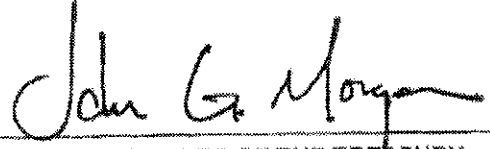
TENNESSE DEPARTMENT OF TRANSPORTATION:

  
\_\_\_\_\_  
GERALD F. NICELY, COMMISSIONER                      OCT 01 2008  
DATE

APPROVED:

  
\_\_\_\_\_  
JOHN REINBOLD, GENERAL COUNSEL                      9/26/08  
APPROVED AS TO FORM AND LEGALITY                      DATE

  
\_\_\_\_\_  
M. D. GOETZ, JR., COMMISSIONER                      10-6-08  
DEPARTMENT OF FINANCE AND ADMINISTRATION                      DATE

  
\_\_\_\_\_  
JOHN G. MORGAN, COMPTROLLER OF THE TREASURY                      10/8/08  
DATE

## ATTACHMENT ONE

## ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	
CONTRACTOR LEGAL ENTITY NAME:	WHITE / THOMPSON, LLC
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	20-0480167

The Contractor, identified above, does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract.



CONTRACTOR SIGNATURE

NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. If said individual is not the chief executive or president, this document shall attach evidence showing the individual's authority to contractually bind the Contractor.



PRINTED NAME AND TITLE OF SIGNATORY

9-25-08

DATE OF ATTESTATION

## **ATTACHMENT TWO**

### **Media Services Job Descriptions**

#### **Account Executive**

Serves as the liaison between the agency support staff and its client. Specific responsibilities include client communication, project management, budget tracking, and facilitation of all campaigns.

#### **Administrative/Clerical/Intern**

Responsible for generating paperwork to initiate the opening of jobs, shipping and receiving of materials to clients and vendors, making photo copies, accurate accounting of time keeping for all projects, purchase orders to outside vendors, generation of monthly invoices, and various other clerical and administrative functions.

#### **Art Director**

Responsible for collaborating with the creative team to generate campaign concepts and execution of creation of concepts. Applies campaign components to media forms such as print, broadcast and collateral.

#### **Copywriter**

Member of the creative team and responsible for collaborating with the group to generate copy and messages that meet the campaign goals.

#### **Creative Director**

Serves as the department head in leading the creative process. Supervises all art directors and copywriters.

#### **Digital Services**

Digital file preparation to insure creative and artwork file formats are compatible for use with various external vendors such as print suppliers.

#### **Illustration**

Creation of original artwork via a computer generated or hand drawn images.

#### **Media Placement Services**

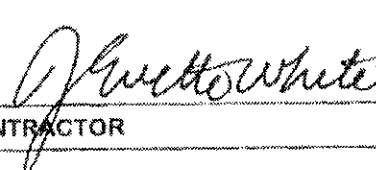
Research, planning and buying of paid and non-paid media at the statewide level

#### **Photo Retouching**

Adjusting color, sizing, image imperfections, and other attributes to make the photo campaign ready.

#### **Production Supervisor**

Management of all trafficking projects through the agency with external vendors, for the timely completion of all campaign deliverables. Responsible for managing external purchases and securing a minimum of three outside production estimates pertinent to each campaign project to insure projects at or below budget allocated for each project.

FA CONTRACT INFORMATION SUPPLEMENT	
FOR ALL FA-TYPE CONTRACTS -- COMPLETE EITHER SECTION A OR SECTION B	
Contract RFS #	405.23-553
Contractor:	White / Thompson, LLC
<b>SECTION A— CONTRACTOR IS AN INDIVIDUAL</b>	<b>SECTION B— CONTRACTOR IS A COMPANY</b> (e.g., sole proprietorship, partnership, or corporation)
Is or has the contractor been a state employee?	Does an individual, who is or has been a state employee, own controlling interest in (or own) the contractor company?
<input checked="" type="checkbox"/> NO (no additional information required) <input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO (no additional information required) <input type="checkbox"/> YES
Was such employment within the past six months?	Was such employment within the past six months?
<input type="checkbox"/> NO <input type="checkbox"/> YES (an approved rule exception permitting a contract within six months of employment is also required)	<input type="checkbox"/> NO <input type="checkbox"/> YES (an approved rule exception permitting a contract within six months of employment is also required)
Does the contractor receive Tennessee Consolidated Retirement System (TCRS) retirement benefits?	Does the individual who owns controlling interest in the contractor company receive Tennessee Consolidated Retirement System (TCRS) retirement benefits?
<input type="checkbox"/> NO <input type="checkbox"/> YES (the procuring agency general counsel MUST sign an analysis of this procurement using the TCRS analysis guidelines)	<input type="checkbox"/> NO <input type="checkbox"/> YES (the procuring agency general counsel MUST sign an analysis of this procurement using the TCRS analysis guidelines)
<b>CONTRACTOR SIGNATURE</b>	
	
CONTRACTOR	DATE
	9-25-08